

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Downtown Fernandina Beach Station)
Fernandina Beach, FL)

Docket No. A2013-7

PUBLIC REPRESENTATIVE'S REPLY COMMENTS

(September 27, 2013)

The procedural schedule for this appeal established a September 4, 2013 deadline for initial briefs and a September 18, 2013 deadline for the Postal Service's answering brief.¹ The Public Representative elected to file her comments after these briefing deadlines in order to consider both parties' briefs, in conjunction with the Administrative Record (Record), prior to providing her assessment. However, the Postal Service did not file an answering brief in this proceeding. In light of the absence of an answering brief, the Public Representative's comments focus on the sufficiency of the Record and the final determinations² concerning the Downtown Fernandina Beach post office.

I. Introduction

The Public Representative recognizes that the discontinuance of under-utilized retail facilities plays a role in the Postal Service's long-run financial stability. Congress recognized the need for Postal Service flexibility in discontinuing post offices in 39 U.S.C. § 404(a)(3) and balanced that flexibility with the notice and procedural requirements of 39 U.S.C. § 404(d), which were intended to protect the interests of postal customers. The Public Representative believes the public interest is served when the Postal Service complies with statutory notice and procedural requirements for discontinuances,

¹ Order Granting Motion to Extend Filing Deadline, August 16, 2013, at 3 (Order No. 1811).

² As is discussed in Section III *infra*, three documents represented to be the Downtown Fernandina Beach post office final determination were filed in this proceeding.

regardless of the ultimate determination concerning any one post office. In this proceeding, the Postal Service has failed to comply with the requirements of 39 U.S.C. § 404(d). For that reason, the Public Representative concludes that the Downtown Fernandina Beach final determinations must be remanded in accordance with 39 U.S.C. § 404(d)(5).

II. Background

In Order No. 1789, the Commission set the procedural schedule for this proceeding.³ The procedural schedule mandated an August 1, 2013 deadline for the Postal Service's filing of the Record. *Id.* at 5.⁴ In a prior pleading, the Public Representative detailed the haphazard and piecemeal provision of the Record in this proceeding.⁵ In summary, the Postal Service has provided the Record in four separate filings over the course of nearly six weeks.

- On August 1, 2013, the Postal Service filed "the electronic version of the administrative record concerning the Final Determination to Close the Fernandina Beach Downtown Station and Continue to Provide Service By Contract Postal Unit."⁶ Record Filing No. 1 was missing several key documents, including the final determination.
- On August 9, 2013, the Postal Service filed additional documents for the Record.⁷ In that filing, the Postal Service represented that Item No. 35 was "the Final Determination from headquarters." *Id.* at 1.
- On August 14, 2013, the Postal Service filed an additional supplement with new documents for the Record.⁸

³ Notice and Order Accepting Appeal and Establishing Procedural Schedule, July 24, 2013, at 5 (Order No. 1789).

⁴ That deadline was extended to August 13, 2013 after the Postal Service failed to timely file key portions of the Record. Order Granting Motion for Extension and Establishing Due Date for Submission of Documents, August 7, 2013, at 2 (Order No. 1800).

⁵ Public Representative's Opposition to Postal Service's Notice of Filing Errata, September 13, 2013, at 2-4 (PR Opposition).

⁶ United States Postal Service Notice of Filing Administrative Record, August 1, 2013, at 1. The partial administrative record was attached to the Notice (Record Filing No. 1).

⁷ United States Postal Service Notice of Filing of Supplemental Documents for Inclusion in the Administrative Record, August 9, 2013 (Record Filing No. 2).

⁸ United States Postal Service Second Notice of Filing of Supplemental Documents for Inclusion in the Administrative Record, August 14, 2013 (Record Filing No. 3).

- On September 10, 2013, nearly six weeks after the August 1st deadline and after being twice-admonished by the Commission for delayed filings of the Record,⁹ the Postal Service filed an erratum, containing a new final determination.¹⁰ The Public Representative and petitioner subsequently objected to the Postal Service's late-filed improper substitution of the final determination.¹¹

At present, the Record contains two proposals and two final determinations—with no clear evidence as to which were posted at the Downtown Fernandina Beach post office. In addition, the petitioner provided a third version of the final determination, which he represents is the one posted at the Downtown Fernandina Beach post office.¹²

III. The Postal Service Failed to Provide an Adequate and Reliable Record.

In this proceeding, the Postal Service has not provided an adequate Record on which the Commission can rely. In two recent cases, the Commission remanded proceedings for similarly defective records. In the *Lodi* proceeding, the petitioner informed the Commission that the administrative record on file with the Commission differed from the administrative records posted at the local post offices.¹³ One discrepancy involved differing versions of the proposal, which was revised during the 60-day comment period. *Id.* at 6-7. In Order No. 1213, the Commission discussed the features of an adequate and reliable record and found that such a record includes customer comments on the actual proposal being considered; provides the Postal Service with the information needed to make an informed decision; and can be relied upon by the Commission in reviewing the Postal Service's decision. *Id.* at 8. Finding the record deficient, the Commission remanded the determination. *Id.* Similarly, in the *Deering* proceeding, the Commission found that the record contained two proposals which “appear to have been posted during the exact same time period.”¹⁴ The Commission found that “[i]ssues with the Administrative Record make it difficult for the Commission to determinate if the Postal Service provided proper notice to customers.” *Id.* The Commission thus questioned whether the record could be relied upon and remanded the determination. *Id.*

⁹ Order No. 1800 at 2; Order No. 1811 at 2.

¹⁰ Notice of the United States Postal Service of Filing Errata, September 10, 2013 (Record Filing No. 4).

¹¹ PR Opposition at 1; Petitioner's Opposition to Postal Service's Notice of Filing Errata, September 16, 2013.

¹² Petitioner Request to Affirm Appeal and Stop Closing, August 13, 2013, at 1 (Petitioner Request).

¹³ Docket No. A2012-26, Order Remanding Determination, February 8, 2012, at 6 (Order No. 1213).

¹⁴ Docket No. A2012-58, Order Remanding Determination, February 24, 2012, at 8 (Order No. 1259).

The state of the Record in this proceeding is even more alarming than the records in *Lodi* and *Deering*. Like the *Lodi* and *Deering* appeals, the Downtown Fernandina Beach Record contains two date stamped documents entitled “Proposal to Close the Fernandina Beach Downtown, FL Station and Continue to Provide Service by Contract Postal Unit.”¹⁵ The date stamps on the proposals indicate both proposals were posted at the Downtown Fernandina Beach post office from November 19, 2011 to January 20, 2012. See *id.* at 32, 595.¹⁶

The proposals differ significantly in content. In the effect on employees section of the first proposal, the proposal states: “There is currently a Postmaster assigned to this unit. The Postmaster may be moved to another facility if possible. Additionally there are 48 craft employees assigned to this unit. These employees will be relocated per the National Labor Agreements.” *Id.* at 35. The effect on employees section of the second proposal states very different facts— “[c]urrently only 1 employee works at the Downtown Station. Employee would be relocated to Main Post Office appromiximatly [sic] 3 miles away.” *Id.* at 597. The first proposal states that there are 625 post office box (P.O. box) or general delivery customers, while the second identifies 548. *Id.* at 35, 597. Despite the large number of P.O. box customers, only the second proposal explains where replacement P.O. box service will be available. *Id.* at 596.

The Record contains no explanation for the competing proposals, divergent content, or why the proposals were signed on the same day by different individuals.¹⁷ There is also no information on which proposal was posted in the Downtown Fernandina Beach post office or on which proposal comments were received.

While the dualing proposals are reason enough to remand the appeal under the Commission’s precedents of *Lodi* and *Deering*, the Record contains two versions of the final determination—with the petitioner providing a third version that he asserts was posted

¹⁵ Since Record Filing No. 1 contains items with duplicate item numbers and bates stamps that are missing or difficult to read, the Public Representative will cite to the page number of Record Filing No. 1 (page number in the .pdf document) rather than the item number. In the case of the proposals, both are labeled item 17. The first proposal follows item 16, while the second follows item 23. Record Filing No. 1 at 32-35, 595-97.

¹⁶ The stamps for the first proposal appear on the Invitation for Comments letter to patrons, while the stamps for the second proposal appear on the cover sheet of the second proposal. *Id.*

¹⁷ The first was signed by Charlotte M. Cutlip, although the signature line reads “Keith Pierle, Manager, Post Office Operations.” *Id.* at 35 (as compared to Ms. Cutlip’s signature on .pdf page 32). The second was signed by Stephen Hardin, also “Manager, Post Office Operations.” *Id.* at 597.

in the Downtown Fernandina Beach post office.¹⁸ The two final determinations in the Record were signed approximately two weeks apart by the same individual. Determination Nos. 1-2 at 7.

In the responsiveness to community postal needs section, Determination No. 1 discusses the building's condition and presence of mold. Determination No. 1 at 1. No such facts were included in Determination No. 2. In addition, the differences between the economics savings sections are material. Determination No. 1 contains a 300% higher 10-year estimated savings than Determination No. 2. Determination Nos. 1-2 at 6. Determination No. 1 estimates a \$992,445 10-year savings,¹⁹ including \$591,250 in EAS Craft & Labor. Determination No. 2 estimates a \$315,359 10-year savings with no savings for EAS Craft & Labor. *Id.*²⁰

While Determination No. 2 mirrors Determination No. 3 in content, both the Postal Service and the petitioner represent that the final determination each filed was the one posted in the Downtown Fernandina Beach post office. Record Filing No. 4 at 1; Petitioner Request at 1. If both documents were the document posted in the Downtown Fernandina Beach post office, one would expect them to be identical. Determination No. 2 and Determination No. 3 are not. Determination No. 3 contains an additional page providing the contact information for the Post Office Review Coordinator. Determination No. 3 at 8. In addition, the date-stamped cover sheets do not match. By comparing the placement and angle of the date stamps, it is clear that Determination No. 2 and Determination No. 3 are not the same document. *Compare* Determination No. 2 at 1 *with* Determination No. 3 at 1. Unless three determinations were posted, it is unclear from the Record which final determination was actually posted at the Downtown Fernandina Beach post office.²¹

The determinations in this proceeding should be remanded because the quality of the Record as a whole is so poor that it fails to meet the adequate and reliable record test set forth in *Lodi*. Order No. 1213 at 8. In this proceeding, the Record does not include "customer comments on the actual proposal being considered" because it is not clear

¹⁸ See Record Filing No. 2, item 35 (Determination No. 1); Record Filing No. 4, item 35A (Determination No. 2); Petitioner Request, Attachment (Determination No. 3).

¹⁹ In fact, Determination No. 1 categorized the savings as "Total 10 yr Net Present Value (NPV)" as opposed to Determination No. 2's "Total Ten Year Savings." *Id.* at 6.

²⁰ The differing savings estimates are also listed again in the final determinations' summaries. *Id.*

²¹ In a prior pleading, the Public Representative also discussed issues with the bates stamps on the various final determinations, so she will not repeat those comments here. However, she notes that her discussion remains relevant to the Commission's consideration of the reliability of the Record. See PR Opposition at 8.

which proposal was under consideration. The Record did not provide the Postal Service with the information needed to make an informed decision, as the Record contains incorrect and inconsistent information.²² Finally, the Record certainly is not one “that can be relied upon by the Commission in reviewing the Postal Service’s decision”—as there is not even a consistent version of the final determination for Commission review. Therefore, the Commission should remand the determinations due an inadequate and unreliable Record.

IV. The Postal Service Has Not Complied with the Notice Requirements of 39 U.S.C. § 404(d).

Not only do the differing proposals and final determinations raise significant questions about the integrity of the Record, they also raise questions as to whether the Postal Service provided the Downtown Fernandina Beach postal patrons with the notice required by 39 U.S.C. § 404(d). Section 404(d)(1) mandates a 60-day comment period for proposals to discontinue a post office. With two different proposals in the Record, the Postal Service did not provide proper notice under 39 U.S.C. § 404(d)(1) since there is no evidence in the Record explaining which proposal was posted and on which comments were received. Section 404(d)(3) and (4) require that the Postal Service provide a written determination of its decision to postal patrons at least 60 days before it takes any action to close or consolidate a post office. At present, since there are three versions of the final determination, all represented to have been posted at the Downtown Fernandina Beach post office, there is an issue of fact as to which final determination was posted. Without knowing which proposal and which final determination were posted at the Downtown Fernandina Beach post office, the Commission should find that the Postal Service failed to comply with the notice requirements of 39 U.S.C. § 404(d) and remand the proceeding to ensure proper notice.

V. The Postal Service Did Not Adequately Consider the 39 U.S.C. § 404(d)(2)(A) Factors.

A. The Postal Service’s Consideration of the Effects on the Community is Deficient.

The Postal Service has not adequately considered the effect on the community because its analysis contains inaccuracies and inconsistencies and is largely

²² See Section V.A.1 *infra*.

nonresponsive to community concerns. The Commission should remand this proceeding for inadequate consideration of the effects on the Fernandina Beach community.

1. *The Record Contains Inaccuracies and Inconsistencies.*

The Record contains several inaccuracies and inconsistencies that raise questions as to whether the effect on the community was adequately considered by the Postal Service. The Commission has previously remanded determinations in proceedings where inaccuracies and discrepancies led the Commission to conclude that the Postal Service failed to adequately consider the effect on the community.²³ The following selection of inaccuracies and inconsistencies demonstrate that the Postal Service failed to consider the effects on the Downtown Fernandina Beach community:

- Item 5 states that “NBR records of mail theft or vandalism: 21” while item 6 states “No theft or vandalism has been reported to the Postmaster/Oic.” Record Filing No. 1 at 7, 9.
- The Record and all three final determinations incorrectly state that the Downtown Fernandina Beach post office is not a historic landmark. *Id.* at 8, 34, 597; Determination Nos. 1-3 at 5. Several questionnaires and comment forms clearly state that the Downtown Fernandina Beach post office is a historic building.²⁴ In fact, one questionnaire clearly states that the “[d]owntown post office is . . . in the National Register of Historic Places.” *Id.* at 232. The Public Representative confirmed with the National Park Service that the Downtown Fernandina Beach post office is in the National Register of Historic Places.²⁵
- As reasoning for the discontinuance, the final determinations state that the community “is going to incorporate with the neighboring city and the Postal Service is determining the needs of the new community structure.” Determination Nos. 1-3 at 1. The petitioner, a resident of Fernandina Beach, asserts that these statements are incorrect.²⁶

²³ Docket No. A2011-81, Order Remanding Determination, January 19, 2012, at 10-11 (Order No. 1150); Docket No. A2011-61, Order Remanding Determination, December 22, 2011, at 7 (Order No. 1067).

²⁴ See e.g., Record Filing No. 1 at 86, 89, 120, 132, 194, 232, 240, 599, 616, 674.

²⁵ Email from Rustin Quaide, National Park Service, to Anne J. Siarnacki, Public Representative (August 5, 2013, 16:40 EST) (on file with author).

²⁶ Petitioner’s Initial Brief in Support of Petition, September 4, 2013, at 1.

- The two proposals state that there are no delivery route customers. Record Filing No. 1 at 35, 597. However, the discontinuance study stated “[t]he mail is received and dispatched by a Highway Contract Route.” *Id.* at 9.
- The Postal Service justifies the discontinuance by citing declining revenue numbers. Several customers commented that no new P.O. box rentals were allowed beginning in early to mid-2011. *Id.* at 86, 89, 366, 616, 641. Therefore, the Postal Service’s declining revenue numbers for FY 2011 and FY 2012 (on which the final determinations are based) may not accurately portray the real revenue picture at the Downtown Fernandina Beach post office. Instead, the numbers likely portray, in part, a Postal Service decision to end P.O. box rental during all or part of those fiscal years.
- The letter to postal customers with the questionnaire attached is dated October 28, 2011. It indicates responses are due by November 17, 2011. *Id.* at 21, 22. However, the questionnaires returned by customers have a deadline of January 9, 2012. *See e.g., id.* at 38, 40, 42. Thus, the Public Representative suspects that the Record does not contain the actual letter given to postal customers.

The Commission should remand the final determinations because the inaccuracies and inconsistencies in the Record indicate that the Postal Service failed to adequately consider the effects on the Downtown Fernandina Beach community as required by 39 U.S.C. § 404(d)(2)(A)(i).

2. *The Postal Service Failed to Address the Community’s Concerns.*

With regard to both the community’s questionnaire responses and comments, the Postal Service outright failed to address the community’s concerns. The Commission previously remanded a determination because the Commission could not “determine whether the Postal Service adequately addressed concerns about the effect on the community.”²⁷ In particular, the Commission found that the Postal Service’s responses to questionnaires did “not meaningfully respond to concerns.” *Id.*

The questionnaires and comments raise several concerns that the Postal Service fails to address in its analysis of the questionnaires and comments. For example, the

²⁷ Docket No. A2011-60, Order Remanding Determination, December 30, 2011, at 10 (Order No. 1091).

community repeatedly articulated concerns about having to change P.O box numbers.²⁸ Many directly inquired why individuals would not be permitted keep their box numbers. *Id.* at 248, 272, 617. The Postal Service failed to respond to these concerns, instead offering confusing and contradictory canned statements about alternative service. For example, in response to both the questionnaires and comments concerned “about a possible address change,” the Postal Service stated “[t]here will be no change in customer addresses.” Determination Nos. 1-3 at 4. However, in response to the concern about “having to make an address change on . . . bank checks and stationery,” the Postal Service stated that “[c]ustomers will be assigned a carrier route address. The new address will continue to use the community name and ZIP Code.” *Id.* These contradictory responses fail to address the community’s concerns about P.O. box numbers in a meaningful way and do not provide a clear answer as to whether customers’ addresses will change as a result of the discontinuance.

The questionnaires and comments repeatedly voiced concerns about historic nature of Downtown Fernandina Beach post office and its placement in the National Registry.²⁹ With regard to both the questionnaires and comments, the Postal Service summarized the community’s concern as “[c]ustomers expressed concern about how the loss of the Post Office would negatively impact the historical dimension of the community.” Determination Nos. 1-3 at 3. While this was the concern of some, many more voiced concerns about the historic nature of the post office itself and discussed the building’s status in the National Registry of Historical Places. See *e.g.*, Record Filing No. 1 at 86, 232. The Postal Service’s offered a non-responsive, canned response and stated “[t]he Postal Service is helping to preserve the community name by continuing the use of the Community name in addresses.” Determination Nos. 1-3 at 3. Since the Postal Service failed to address the community’s concerns, the Postal Service’s consideration of the effects on the community is inadequate under 39 U.S.C. § 404(d)(2)(A)(i).

B. The Postal Service’s Consideration of the Effects on Postal Employees is Deficient.

The Postal Service’s consideration of the effects on postal employees is inadequate because the Record contains inconsistencies concerning the number of postal employees

²⁸ See Record Filing No. 1 at 95, 99, 101, 107, 112, 114, 116, 128, 136, 162, 182, 220, 228, 617, 625, 636 for a representative sampling.

²⁹ See Record Filing No. 1 at 86, 89, 114, 132, 136, 152, 162, 186, 194, 232, 234, 240, 599, 621, 628, 638 for a representative sampling.

that work at the Downtown Fernandina Beach post office and the planned treatment of those employees after the Downtown Fernandina Beach post office is discontinued. Based on the Record, the Public Representative cannot determine how many employees work at the Downtown Fernandina Beach post office. In the building inspection report, the inspector indicated that he interviewed the manager and three employees. Record Filing No. 1 at 15-16. The first proposal states that there are a Postmaster and 48 craft employees at the Downtown Fernandina Beach post office. *Id.* at 35. The proposal indicates that the Postmaster may be moved to another facility and the employees will be relocated per the National Labor Agreements. *Id.*³⁰ The discontinuance study also indicates that carriers are based at the Downtown Fernandina Beach post office, in stating that carriers begin work at 9:30 A.M. and that “mail is received and dispatched by a Highway Contract Route.” *Id.* at 9. However, the second proposal states that currently there is only one employee, who will be relocated to another post office. *Id.* at 597.³¹ Several paragraphs later, the second proposal states “all employees are part of another installation and their work schedules will be adjusted to work at the parent facility.” *Id.*

Since the Public Representative cannot ascertain from the Record whether the Downtown Fernandina Beach post office employs one, four, or forty-nine employees, the Postal Service has not adequately considered the effect on its employees. Similarly inadequate are contradictory statements concerning the discontinuance’s impact on those employees. Thus, the Postal Service did not adequately consider the effect on employees as required by 39 U.S.C. § 404(d)(2)(A)(ii).

C. It Does Not Appear that Regular and Effective Service Will Continue After the Discontinuance of the Downtown Fernandina Beach Post Office.

The Postal Service’s plan does not ensure that effective and regular service will continue to be provided to the Downtown Fernandina Beach postal patrons. One cannot even discern from the Record what replacement service the Postal Service plans to provide. The final determinations discuss no fewer than five very different service alternatives without providing any clarity as to how Downtown Fernandina Beach customers will continue to receive service. In addition, it appears from the Record that some segments of the community may no longer receive any service, and despite a large

³⁰ The proposal later states “only 1 employee works at the Downtown Station. Employee would be relocated to Main Post Office approximately [sic] 3 miles away.” *Id.*

³¹ This statement is also included in all three final determinations. Final Determination Nos. 1-3 at 6.

number of P.O. box holders at the Downtown Fernandina Beach post office, the final determinations provide no information on replacement box service. Thus, the Commission should remand the determinations for failure to explain how effective and regular service will be continued in Downtown Fernandina Beach.

1. *The Plan for Alternative Service is Unclear.*

The Record is unclear as what alternative service(s) will be offered to the patrons of the Downtown Fernandina Beach post office. The Commission recently remanded two determinations for failure to inform customers of the alternatives available to them. In the *South Valley* proceeding, the Commission found that the Postal Service did not adequately consider the effect on the community when the final determination read “as if the Postal Service were closing a small rural post office and extending rural carrier service” rather than providing service at a nearby post office.³² Under similar facts, the Commission remanded the *Coyote* determination, finding the Postal Service needed to do a better job informing customers of the alternatives available to them.³³

In this proceeding, the Postal Service has neglected to inform patrons at every step in the process what replacement service they will receive. A letter to customers seeking comments stated “[t]his letter provides notice that the U.S. Postal Service is conducting a discontinuance feasibility study of facility operations at the Fernandina Beach Downtown Station into the Fernandina Beach Post Office.” Record Filing No. 1 at 21. The Postal Service provided a pamphlet with that letter entitled “Post Office on Wheels, Services Available from Rural and Highway Contract Route Carriers.” *Id.* at 24. The pamphlet explains the additional services customers can receive from Rural and Highway Contract Route Carriers. *Id.* In response to concerns raised at the community meeting, the Postal Service indicated it would provide rural route service, Centralized Box Units, and a community post office as alternative services. *Id.* at 593-94.

Both proposals state “delivery and retail services [will be provided] by contract postal unit” in the opening sentence. *Id.* at 34, 596. A few paragraphs later, both proposals state “delivery and retail services will be provided by the Fernandina Beach Post Office.” *Id.* The second proposal adds “[r]etail service is also available at the Yulee Post Office. *Id.* at 596. A few paragraphs later, the both proposals state “[a] carrier route

³² Docket No. A2012-108, Order Remanding Determination, April 18, 2012, at 11-12 (Order No. 1317).

³³ Docket No. A2011-74, Order Remanding Determination, January 10, 2012, at 8 (Order No. 1123).

address will be assigned” and “[r]etail services may be provided by the rural or contract delivery carrier.” *Id.* at 34, 596.³⁴

From the final determinations, it remains impossible to ascertain how the Postal Service intends to provide replacement service. The first paragraph of the final determinations state that the Postal Service will “provide delivery and retail services by contract postal unit.” Determination Nos. 1-3 at 1. While this is the type of replacement service indicated by the title of the final determinations, the Public Representative was surprised that the Books Plus contract postal unit (CPU) provides delivery services.³⁵ On the following page, the final determinations state delivery and retail services will be provided by the Fernandina Beach Post Office with additional retail service provided at the Yulee Post Office. Determination Nos. 1-3 at 2.

Then, like *South Valley Station*, the responses to community concerns “read as if the Postal Service were closing a small rural post office and extending rural carrier service” with a possibility for Centralized Box Units [CBUs] or a Community Post Office [CPO]. Representative of the confusing statements concerning replacement service in the final determinations, the Postal Service made the following representations:

- Retail “services will be provided by the carrier to a roadside mailbox located close to customers’ residences.” *Id.*
- “The carrier can provide retail services, alleviating the need for customers to go to the Post Office for service.” *Id.* at 4.
- “Customers will be assigned a carrier route address.” *Id.*
- “Services provided at the Post Office will be available from the carrier, and customers will not have to travel to another Post Office for service. Most transactions do not require meeting the carrier at the mailbox.” *Id.*
- “The rural carrier provides all the services that are available at the Post Office with the exception of PO Box service and bulk mail acceptance.” *Id.*

³⁴ The Postal Service’s responses to questionnaires also indicate intent to provide rural carrier service. *Id.* at 590-92.

³⁵ In describing the services offered by CPUs, the Postal Service’s website does not include delivery services. See <http://about.usps.com/suppliers/becoming/contract-postal-unit.htm> (last visited September 20, 2013).

- The “carrier can provide delivery and retail services to roadside mailboxes or Centralized Box Units.” *Id.*³⁶
- “Rural letter carriers perform a vital function in the United States Postal Service. . . . Rural carriers are required to serve the route expeditiously each day.” Determination Nos. 1-3 at 5.
- “The estimated cost of the CPO is based on price comparisons with other contracts providing similar services. A CPO is often located in an existing business and can operate more cost-effectively.” *Id.*

The Commission should reject the Postal Service’s analysis as it is impossible to ascertain from the Record and particularly the final determinations what replacement services the Downtown Fernandina Beach community will receive to ensure regular and effective service continues.

2. *Segments of the Downtown Fernandina Beach Community Appear to be Left Without Replacement Service.*

The questionnaires and comments repeatedly raised concerns about the unique nature of the boating community in Fernandina Beach. Record Filing No. 1 at 39, 86, 142, 641. One questionnaire stated, “I live on my Boat at the Marina, and depend on the Downtown Station for everything.” *Id.* at 39. Another explained that the Marina is one of the few in the country where one can walk to town and receive all services. Boat owners receive their mail through P.O. boxes because there is no mail delivery to the Marina. *Id.* at 86. That questionnaire also stated that residents of Cumberland Island receive mail at the Downtown Fernandina Beach post office by taking a ferry and then walking from the ferry to the P.O. boxes. *Id.* The Postal Service used canned responses when responding the community’s unique concerns and failed to actually address how those living at the Marina and on Cumberland Island will continue to receive service. The Postal Service acknowledged “[c]ustomers were concerned about having to travel to another Post Office for service.” Determination Nos. 1-3 at 4. But ignoring that delivery is not provided to the Marina, the Postal Service responded “[s]ervices provided at the Post Office will be available from the carrier, and customers will not have to travel to another Post Office for service.” *Id.* The Postal Service’s response does not resolve the concerns raised about residents of the Marina and Cumberland Island and fails to resolve the non-availability of

³⁶ The discontinuance study also discussed CBUs in stating “Approximate number of CBUs to be installed: 0.” Record Filing No. 1 at 9.

delivery to the Marina. It appears residents of the Marina and Cumberland Island will not continue to receive regular and effective service if the Downtown Fernandina Beach post office is discontinued.

3. *The Record Does Not Adequately Address Replacement P.O. Box Service.*

In this proceeding, the Postal Service has failed to adequately address replacement P.O. box service. The Commission has long considered the availability of replacement post office boxes as a consideration in whether effective and regular service will continue to be provided to a community facing a discontinuance.³⁷ The Postal Service's consideration of the availability of replacement post office boxes must be evident from the Record itself. Order No. 1188 at 9. Potential shortfalls in the number of post office boxes should be addressed in the Record. Order No. 1150 at 12; Order No. 974 at 10.

The Record contains contradictory statements concerning the number of box holders at the Downtown Fernandina Beach post office. Item 1, item 29, and the first proposal state there are 625 P.O. box holders. Record Filing No. 1 at 3, 35, 687. The second proposal and all three final determinations state that the post office "provided delivery and retail service to 548 PO Box or general delivery customers and no delivery route customers." *Id.* at 597; Determination Nos. 1-3 at 7.

The Record also never clarifies how replacement P.O. box service will be provided. In the letter requesting survey responses, the Postal Service states "[i]f a decision is ultimately made to discontinue the Fernandina Beach Downtown Station and you are a Post Office Box customer, you will have the option of Post Office Box delivery at the Fernandina Beach Post Office." Record Filing No. 1 at 21. However, neither proposal addresses the availability of P.O. boxes at that location. In fact, only the second proposal mentions P.O. box availability at all when it informs patrons that at the Yulee Post Office "[t]here are 327 post office boxes available for rent." *Id.* at 596. The final determinations fail to consider the availability of P.O. boxes altogether. Since the Record does not explain how replacement P.O. box service will be provided or analyze whether there is sufficient availability at neighboring post offices, the Postal Service failed to consider whether regular and effective service would be maintained with regard to P.O. box service.

³⁷ Order No. 1259 at 9; Docket No. A2012-21, Order Remanding Determination, February 1, 2012, at 9 (Order No. 1188); Order No. 1150 at 12; Docket No. A2011-34, Order Remanding Determination, November 16, 2011, at 10 (Order No. 974).

VI. Conclusion

The Commission should remand the Downtown Fernandina Beach final determinations as failing to meet the requirements of 39 U.S.C. § 404(d). The Record itself contains two differing proposals and two final determinations—with a third version provided by the petitioner. The competing documents raise questions about both the integrity of the Record and the adequacy of the notice given to Downtown Fernandina Beach patrons. The inconsistencies and inaccuracies throughout the Record raise significant questions concerning what replacement services will be provided, how postal employees will be treated, and whether the community's concerns were adequately considered. Ultimately, the failure to correct errors and explain inconsistencies in the Record evidences that the Postal Service's final decisionmaker did not have adequate information with which he could make a sound determination. Based on the Record before the Commission, the final determinations should be remanded to correct inaccuracies, inconsistencies, and the competing versions of documents concerning the Downtown Fernandina Beach post office.

Respectfully submitted,

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